TORTS—INTERFERENCE WITH BUSINESS—COMPETITION.—TUTTLE v. BUCK, 119 N. W. 946 (MINN.) Where a man of wealth and influence maliciously established a barber shop and used his influence to attract customers from the plaintiff's shop, not to serve any purpose of his own, but solely to injure the plaintiff's business, *held,* that this complaint states a cause of action. Elliott and Jaggard, JJ., *dissenting.*

The weight of authority seems to support the rule that where a person has a legal right to do a thing his motive is immaterial. *Paine v. Chandler,* 134 N. Y. 385; *Jenkins v. Fowler,* 24 Penn. 308; *Brouthers v. Morris,* 49 Vt. 460. But there is some authority to the effect that a man has no right to commit a lawful act maliciously with the sole purpose of injuring another. *Burke v. Smith,* 69 Mich. 380; *Chesley v. King,* 74 Me. 164. It is clearly established, however, that a malicious motive is not a necessary element in a cause of action for the invasion of another's legal right. *Hussey v. Peebles,* 53 Ala. 432; *Bizzell v. Booker,* 16 Ark. 308. It is held to be an actionable wrong to injure another person's business without justifiable cause. *Ry. Co. v. Chambers,* 126 Ga. 404; *Oil Co. v. Doyle,* 118 Ken. 662. But in competition one man may lawfully, in the absence of contract, endeavor to induce his rival's customers to leave him in order to gain trade for himself. *Transportation Co. v. Oil Co.,* 50 W. Va. 611. Any unlawful means to accomplish same, however, will make him liable. *Brown v. Land Mgt. Co.,* 97 Texas 599.

NEGLIGENCE—ACTIONS—BURDEN OF PROOF.—CRAWFORD v. KANSAS CITY STOCKYARDS CO., 114 S. W. (Mo.) 1057.—*Held,* where the plaintiff riding on the side of a car was injured by being struck by the defendant's open stock pen gate in the stockyards, and there was no evidence as to who left the gate open, the inference was that the defendant did so, and the burden of proof was not on the plaintiff to show who opened it.

In special instances this has been held, as, where one engaged in laying a sewer is injured by a falling brick. In the absence of explanation by the contractor doing the brick work, it will be presumed that the injury occurred from want of reasonable care on his part and he is liable for injuries received. *Sheridan v. Foley,* 58 N. J. Law 230. And in a suit based on defendant's negligence, if the plaintiff shows either that he himself is blameless, or the defendant negligent, the burden of negativing the other element is on the defendant. *Savannah, etc., R. R. Co., v. Barber,* 71 Ga. 644; *Moore v. Parker,* 91 N. C. 275. But the weight of authority is to the contrary. In an action for injuries, negligence will not be presumed but must be proven by the plaintiff. *State v. Phila., W. & B. R. R.,* 60 Md. 555; *Seybolt v. N. Y., L. E. & W. R. R.,* 95 N. Y. 562; *Willoughby v. Chicago & N. W. R. R.,* 37 Ia. 432; *Norfolk & W. R. R. Co. v. Ferguson,* 79 Va. 241.